

**IN THE UNITED STATES DISTRICT  
COURT FOR THE EASTERN DISTRICT  
OF TEXAS SHERMAN DIVISION**

**MOBILITY WORKX, LLC,**

**Plaintiff,**

**v.**

**CELLCO PARTNERSHIP D/B/A  
VERIZON WIRELESS,**

**Defendant.**

**Case No.: 4:17-CV-00872 ALM**

**JURY TRIAL DEMANDED**

**DECLARATION OF MICHAEL MACHAT IN SUPPORT OF  
MOTION TO STRIKE PORTIONS OF JAMES PROCTOR'S EXPERT REPORT**

**I, Michael Machat, declare:**

1. I am an attorney admitted to practice law in the States of California and New York, before the Ninth Circuit Court of Appeals and the United States Supreme Court. I am counsel of record for Plaintiff Mobility Workx and have been admitted pro hac vice for this purpose. I am over 18 years of age and am competent to testify as to the matters set forth herein. I make the following statements based upon my own personal knowledge, unless expressly stated otherwise.

2. I have attached to this declaration as Exhibit 1, a true and correct copy of James Proctor's Expert Report regarding the alleged invalidity of Plaintiff's claims dated June 20, 2019. I have highlighted in yellow the portions referenced in the accompanying motion that Plaintiff would like the Court to consider.

3. I have attached to this declaration as Exhibit 2, a true and correct copy of defendant's invalidity contentions dated Jul 24, 2018.

4. I have attached to this declaration as Exhibit 3, a true and correct copy of defendant's amended invalidity contentions dated May 6, 2019.

5. I have attached to this declaration as Exhibit 4, a true and correct copy of the Exhibits to defendant's invalidity contentions. I have only attached the Exhibits pertaining to the '330 and the '417 patents. Exhibit A referenced the '508 patent which is no longer being pursued by Plaintiff in this case.

6. I have attached to this declaration as Exhibit 5, a true and correct copy of an email I sent to Verizon's counsel on April 18, 2019, in which I disputed his challenge to claim 7 of the '417 patent. I pointed out that Verizon has failed to point to any case law providing that the PTO's decision to grant claim 7 is something that Verizon is statutorily entitled to challenge. I also stated that we believe Verizon has conspicuously failed to cite any case law regarding this point because there is none. In fact, *Aristocrat Technologies Australua v. Intern. Game* 543 F.3d 657 (Fed. Cir. 2008) holds the opposite is true. I have not received any case law from Verizon that supports their position and is contrary to *Aristocrat Technologies*.

7. I have attached to this declaration as Exhibit 6, a true and correct copy of the Court's Order in *Huawei Technologies Co. Ltd. v. T-Mobile US, Inc. et al*, Case No. 2:16-CV-000550 JRG\_RSP, Dkt No. 390, in the US District Court for the Eastern District of Texas, 10/16/2017.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 12<sup>th</sup> day of July, 2019 in Los Angeles, California.

Michael Machat  
Michael Machat